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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,412	09/24/2003	Jimmie D. Weaver	2002-IP-007995U1	7925

7590

09/21/2006

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EXAMINER

TUCKER, PHILIP C

ART UNIT	PAPER NUMBER
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1712

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,412

Applicant(s)

WEAVER ET AL.

Examiner

Philip C. Tucker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 15-28, 31-44, 47 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 15-28, 31 and 32 is/are allowed.
- 6) ☒ Claim(s) 33, 34, 37-44 and 48 is/are rejected.
- 7) ☒ Claim(s) 35, 36 and 47 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 6, 22 and 38 are objected to because of the following informalities: The claims are missing the "of" after "group consisting". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 33, 34, 38-41, 43 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Sjostrom et al., LANGMUIR, volume 17, pages 3836-3843 (2001).

Sjostrom teaches a gel formed from hydrophobically modified hydroxyethyl cellulose, which contains a crosslinking agent, and a surfactant within the scope of the present invention (see Experimental section and Figures 9 and 7). Applicants intended use as a well treating fluid does not distinguish (In re Pearson 181 USPQ 641).

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4. Claims 33, 34, 38-41, 43 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Rosen et al., LANGMUIR, volume 14, pages 5795-5801 (1998).

Rosen teaches a gel formed from hydrophobically modified hydroxyethyl cellulose, which contains a crosslinking agent, and a surfactant within the scope of the present invention (see Experimental section and Figure 4). Applicants intended use as a well treating fluid does not distinguish (In re Pearson 181 USPQ 641).

5. Claims 33, 34, 37 and 38-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Rohrbaugh (2003/0180466).

Rohrbaugh teaches a composition which can comprise a hydrophobically modified polymer and surfactant within the scope of the present invention (see paragraphs 0124 and 0169-0170). Such may further comprise a crosslinking agent (see paragraph 0259). The polymer and surfactant would clearly associate as in the present invention. Applicants intended use as a well treating fluid does not distinguish (In re Pearson 181 USPQ 641).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 33 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rohrbaugh (2003/0180466)..

Rohrbaugh teaches a composition which can comprise a hydrophobically modified polymer and surfactant within the scope of the present invention (see paragraphs 0124 and 0171-173). Such may further comprise a crosslinking agent (see paragraph 0259). The polymer and surfactant would clearly associate as in the present invention. Rohrbaugh differs from the present invention in that the specific surfactants of claim 44 are not disclosed. However, the surfactant formula disclosed by Rohrbaugh in paragraph encompasses surfactants disclosed in claim 44. It would be obvious to utilize various surfactants encompassed by the formula of Rohrbaugh, including those of claim 44, as surfactants in the composition of Rohrbaugh, given the teaching of Rohrbaugh that such compounds within the scope of the formula are useful as surfactants therein. Applicants intended use as a well treating fluid does not distinguish (In re Pearson 181 USPQ 641).


8. Applicant's amendment has overcome the prior rejections over varadaj and Harris which fail to teach the crosslinking agent of the amended claims. New rejections are presented in this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C. Tucker whose telephone number is 571-272-1095. The examiner can normally be reached on Monday - Friday, Flexible schedule.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Philip C Tucker
Primary Examiner
Art Unit 1712

PCT-4037